

STEPHEN F. O'NEILL, SBN 62317
MARGARET S. FLYNN, SBN 130815
TARKINGTON, O'NEILL, BARRACK & CHONG
A Professional Corporation
100 Stony Point Road, Suite 270
Santa Rosa, CA 95401
Telephone: (707) 576-1380
Facsimile: (707) 544-3144
Email: oneill@to2law.com
Attorneys for Defendant
SHANNON EDMONDS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHERRILL FOSTER, HOWARD FOSTER,
SHEILA BURTON, and MINNIE
BURTON,

Plaintiffs

v.

SHANNON EDMONDS, LORI TYLER,
COUNTY OF LAKE, CITY OF
CLEARLAKE, and DOES 1-100,

Defendants.

Case No. C-07-5445-EMC

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT OF ALL
PLAINTIFFS AND MOST
DEFENDANTS**

[Jury Trial Demanded]

Date: May 29, 2008
Time: 2:00 p.m.
Honorable William H. Alsup

Plaintiffs and Defendants Shannon Edmonds, Lori Tyler, and the City of Clearlake
hereby submit the following joint case management conference statement. Counsel for
Defendant Lake County did in fact participate in the drafting of this statement, but was unable to
approve its terms and language before the filing deadline; thus, the County will file a separate
statement.

Foster, et al., v. Edmonds, et al. (No. C-07-5445-WHA)

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1 ///

2 **1. Jurisdiction.**

3 Plaintiffs claim Federal Court jurisdiction arising out of Defendants' alleged violations of
4 Plaintiffs' decedents' constitutional rights, making claims under 42 USC 1983. The public entity
5 Defendants have made motions challenging that jurisdiction on a variety of grounds, most import
6 of which is that the private Defendants were not acting under color of state law when the acts
7 alleged occurred. The private Defendants Shannon Edmonds and Lori Tyler will make similar
8 motions challenging Federal Court jurisdiction. Public entity Defendants contend there is no
9 jurisdiction over any state-based claims for failure to comply with the California Claims Act,
10 Government Code sections 900 et. seq., as to the public entity Defendants.

11 **2. Factual and Legal Claims.**

12 **A. Plaintiffs' View.**

13 Plaintiffs Sherrill Foster and Howard Foster are the parents of the decedent, Christian
14 Foster. Plaintiffs Sheila Burton and Minnie Burton are the mother and grandmother of the
15 decedent, Rashad Williams, respectively. Plaintiffs have all named the same Defendants.

16 On December 7, 2005, defendant Shannon Edmonds shot and killed Plaintiffs' decedents
17 as they ran across the street from the house Edmonds owned and where he resided with
18 defendant Lori Tyler in the City of Clearlake, County of Lake. Plaintiffs claim the decedents
19 may have been near Edmonds' residence to purchase marijuana and that a fight broke out
20 (Christian Foster never entered Edmonds' house), during which Edmonds shot decedents in the
21 back as they ran across the street, away from the house. Plaintiffs claim that the public entity
22 Defendants gave active assistance to Edmonds to further his crimes of drug dealing, and
23 knowingly failed to prevent Edmonds from selling drugs before December 7, 2005. Plaintiffs
24 complain that the public entity Defendants had official customs and practices which allowed,
25 condoned, promoted, and protected Edmonds, and that the deaths of the decedents were caused

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1 by these policies, and by the failures of local law enforcement to move against Edmonds sooner,
2 allowing him to engage in continued activity, and emboldening him to such an extent that the
3 murders of Foster and Williams were foreseeable and likely to occur.

4 Plaintiffs claim that the public entity Defendants further violated the constitutional rights
5 of decedents and Plaintiffs by failing fully to investigate the shootings, refusing to prosecute
6 Edmonds for these two deaths, refusing to prosecute Edmonds for pre-event crimes and several,
7 notable post-event crimes, and through the apparent destruction of evidence essential to certain
8 of Plaintiffs' claims. There appears to be racial bias in view of the protection of Edmonds, who
9 is white, by law enforcement, and the vilification of both decedents and the prosecution of their
10 alleged accomplice, Renato Hughes, all three of whom are black.

11 **B. Defendants' View(s).**

12 The public entity Defendants deny all of the Plaintiffs' allegations. They have made
13 motions to dismiss Plaintiffs' complaint on the grounds that it does not state a claim for public
14 entity violation of Plaintiffs' decedents' civil rights. Defendants Edmonds and Tyler deny
15 Plaintiffs' allegations as well. They maintain that Edmonds, Tyler, and Tyler's two children
16 were asleep at 4:00 a.m. when decedents and a third accomplice, Renato Hughes, and possibly
17 one other person, smashed through the rear glass door of their home, and entered the home
18 bearing two shotguns. Defendants allege that the decedents and their accomplices then beat
19 Tyler savagely with a shotgun, and beat her 14 year old son with an aluminum baseball bat to the
20 extent where he is now irreversibly brain damaged. Defendants claim that during this melee one
21 of the decedents shouted "Where's the weed?", referring to Edmonds' medical marijuana which
22 he kept for his own use. Defendants maintain that during the melee in which the decedents were
23 inflicting bodily injuries, Shannon Edmonds was able to retrieve a pistol from a locked gun safe.
24 During this time, Defendant Tyler was in the bathroom calling 911. Defendants maintain that
25 Edmonds then was able to fire a number of shots in the direction of the decedents, who began to

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1 flee, and that several of these shots struck the decedents who succumbed to their injuries.
2 Defendants Shannon Edmonds and Lori Tyler deny engaging in drug selling activities, or in any
3 way colluding with the local law enforcement authorities in any fashion.

4 **3. Issues.**

5 Whether Plaintiffs' battery cause of action is viable as against Defendant Tyler.

6 Whether the force used by Edmonds was excessive or unlawful?

7 Whether the private actor Defendants are liable to Plaintiffs under state law?

8 Whether any or all Defendants are liable to Plaintiffs under federal law?

9 Whether individual municipal Defendants are entitled to qualified immunity?

10 Whether Plaintiffs' federally guaranteed rights were violated by Defendants?

11 If Plaintiffs' federally guaranteed rights were violated by municipal Defendants, to what
12 extent did Plaintiffs suffer damage?

13 Whether policies, customs, or practices of any municipal entity Defendants were the
14 moving force behind the Plaintiffs' injuries?

15 Whether punitive damages are legally supported against the individual Defendants?

16 Whether Plaintiffs have standing to assert wrongful death claims?

17 Whether municipal Defendants' actions were privileged under state law?

18 Whether municipal entity Defendants adequately trained and supervised their employees?

19 **4. Narrowing of the Issues.**

20 Pending by the municipal defendants are motions directed to the pleadings under Federal
21 Rules of Civil Procedure, Rules 12(b)(6) and 12(e).

22 Municipal Defendants anticipate the issue of qualified immunity and perhaps other issues
23 will need to be addressed by a motion for summary judgment prior to trial.

24 The individual Defendants Edmonds and Tyler will be filing motions to challenge the
25 pleadings under FRCP Rules 12(b)(6) and 12(e). These will be made on the basis that Edmonds

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1 and Tyler were not acting under color of state law when the events occurred.

2 **5. Anticipated Motions.**

3 Plaintiffs do not anticipate any at this time, with the exception of pre-trial motions.

4 Municipal Defendants intend to file dispositive motions under Rule 56.

5 Defendants Edmonds and Tyler will be filing motions as indicated above.

6 **6. Relief Sought.**

7 Plaintiffs seek damages as follows:

- 8 a. Wrongful death of the two decedents;
- 9 b. Hospital and medical expenses, in an amount to be tendered;
- 10 c. Coroner's fees, funeral and burial expenses, of about \$12,000-\$13,000 for the
- 11 Foster family, and about \$40,000 for the Burtons;
- 12 d. Loss of familial relationships, including loss of love, companionship, comfort,
- 13 affection, consortium, society, services, solace, and moral support;
- 14 e. Loss of economic support as each plaintiff;
- 15 f. Violation of constitutional rights;
- 16 g. All damages and penalties recoverable under 42 USC §§ 1983 and 1988, and as
- 17 otherwise allowed under California and United States statutes, codes, and
- 18 common law; and,
- 19 h. Decedents' conscious pain and suffering.

20 Plaintiffs also seek the return of, or compensation for, property seized from the two

21 decedents and the Foster family car which the County refuses to return.

22 **7. Anticipated Discovery.**

23 The parties do not agree on a discovery plan. Their views are as follows:

- 24 a. Depositions: Plaintiffs, in view of the large number of percipient witnesses at the
- 25 scene, request that each party be allowed 15 depositions.

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1 Defendants believe that the evidence adduced in the criminal case of *People v. Hughes*,
 2 now pending in Contra Costa Superior Court will be critical to the defense of the defendants. It
 3 is not known when that information will be available to defendants, given the fact that the case is
 4 set to be tried in June 2008.

5 Defendants submit it is premature at this stage of the pleadings, given the public entity
 6 Defendants' respective Motions to Dismiss, to set forth a discovery plan as the outcome of the
 7 Motions to Dismiss will likely determine the scope and purpose of discovery. Defendants
 8 respectfully suggest the parties revisit this issue following rulings on Defendants' Motions.
 9 Otherwise, Defendants do not suggest or require modifications of F.R.Civ.P regarding discovery.

10 b. Written interrogatories: The parties agree to be limited by the Federal Rules of
 11 Civil Procedure, Rule 33.

12 c. Document requests: Plaintiffs and Defendants agree that no party exceed 75
 13 demands to any other party.

14 d. Requests for Admissions: The parties will utilize these requests to include a
 15 statement or opinion of fact or of the application of law to fact, including the genuineness of any
 16 document. The parties agree to be limited by the Federal Rules of Civil Procedure.

17 e. Expert witnesses:

18 (1) Plaintiffs anticipate expert witnesses in the following areas: use of
 19 force/excessive force; police procedures/practices; pathologist; and, economist.

20 (2) Defendants anticipate using experts in use of force/excessive force; pathology;
 21 ballistics; economic issues; and psychology.

22 Plaintiffs anticipate discovery problems in several areas: The files related to Edmonds
 23 maintained by the municipal defendants; investigations of Edmonds; financial arrangements
 24 between Edmonds and municipal employees; disciplinary, and related records of individuals
 25 employed by the municipal defendants.

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8. ADR.

Assuming municipal Defendants' motions to dismiss are not granted in their entirety, without leave to amend, Plaintiffs and municipal Defendants agree to undergo Early Neutral Evaluation.

Defendants Shannon Edmonds and Lori Tyler are financially destitute. Edward's home has been foreclosed. Shannon Edmonds is disabled and unemployed. He has no savings. ADR would probably therefore not be fruitful unless plaintiffs agree to dismiss their claims against Defendants Shannon Edmonds and Lori Tyler.

9. Jury Trial.

Jury trial has been demanded by all parties.

Plaintiffs and several defendants anticipate a 12-day trial.

Defendants Tyler and Edmonds anticipate a trial lasting 30 days.

10. Related Cases.

Case of *People v. Hughes*, pending in the Superior Court of California, County of Contra Costa, is related to this case and should be resolved before discovery and trial of this case begins.

11. Class Action Status.

Not applicable.

12. Dates.

After meeting and conferring, the parties cannot agree on a proposed trial date. Plaintiffs were amenable to trial in September 2009, but Defendant Clearlake would prefer an October 2009 trial date. Counsel for Lake County has indicated that he is not available in September; other, earlier dates were not suitable for various reasons and Plaintiffs oppose a later date.

13. Settlement Conference.

Plaintiffs and the public entity Defendants agree to undergo a judicially supervised settlement conference after the pleadings are settled, initial disclosures, and depositions of the

1 plaintiffs, Edmonds, and Tyler. The settlement conference should occur after the release of the
2 evidence in the matter of *People v. Hughes*. The private Defendants Edmonds and Tyler request
3 an ADR phone conference.

4
5 Date: May 22, 2008

CESARI, WERNER and MORIARTY

6 By: /s/ JOSE A. MONTALVO
7 DENNIS F. MORIARTY
8 JOSE A. MONTALVO
9 ATTORNEYS FOR DEFENDANT LORI TYLER

10 Date: May 22, 2008

LOW, BALL & LYNCH

11 By: /s/ MARK F. HAZELWOOD
12 MARK F. HAZELWOOD
13 DIRK D. LARSEN
14 ATTORNEYS FOR DEFENDANT
15 CITY OF CLEARLAKE

16 Date: May 22, 2008

TARKINGTON, O'NEILL, BARRACK &
CHONG

17 By: /s/ STEPHEN F. O'NEILL
18 STEPHEN F. O'NEILL
19 MARGARET S. FLYNN
20 Attorneys for Defendant
21 SHANNON EDMONDS

22 Date: May 22, 2008

Law Office of Russell A. Robinson, APC

23 By: /s/ Russell A. Robinson
24 Russell A. Robinson
25 Counsel for Plaintiffs
26 SHERRILL FOSTER, HOWARD FOSTER,
SHEILA BURTON, and MINNIE BURTON

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